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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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9 Spirit Master Funding III LLC, ) No. CV 12-02270-PHX-FJM  
10 Plaintiff, ) **ORDER**  
11 vs. )  
12 J Philip Cornett and James E Cornett, III, )  
13 Defendants. )  
14 )  
15 )

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17 The court has before it a Notice of Bankruptcy filing by defendant J. Philip Cornett  
18 (doc. 28). A review of the docket indicates that co-defendant James E. Cornett filed for  
19 bankruptcy twice, and we have scheduled his case for dismissal on January 24, 2014  
20 unless plaintiff gets the stay lifted. Order of Jul. 26, 2013 (doc. 23). On October 9,  
21 2013, we granted J. Philip Cornett's Motion for extension of time within which to file a  
22 Response to plaintiff's motion for summary judgment to October 23, 2013. Order of Oct.  
23 9, 2013 (doc. 27). Instead of filing a Response, he filed a Notice of filing a bankruptcy.

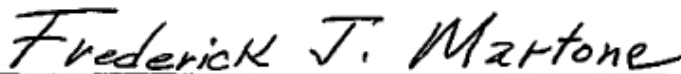
24 Discovery has closed and the dispositive motion deadline has passed. Scheduling  
25 Order of Feb. 8, 2013 (doc. 15). Plaintiff's motion for summary judgment is pending, and  
26 defendant's time to respond expired on the day defendant J. Philip Cornett filed his  
27 Notice of filing bankruptcy. Thus, there will be no response.

28 The automatic stay now operates with respect to both defendants. All that remains

1 is the resolution of the motion for summary judgment, the filing of a proposed pretrial  
2 order on February 21, 2014, the final pretrial conference on February 26, 2014, and the  
3 firm trial date of March 11, 2014. Order of Feb. 8, 2013 (doc. 15).

4 While we had earlier given plaintiff until January 24, 2014 to get the stay lifted as  
5 to co-defendant James E. Cornett, it now makes sense to consolidate the dismissal date  
6 for both defendants. Accordingly, we amend our prior order of Jul. 26, 2013 (doc. 23) as  
7 follows: It is ORDERED that the claims against both defendants, J. Philip Cornett and  
8 James E. Cornett II, will be dismissed without prejudice without further notice on  
9 December 30, 2013, unless the court is advised that the bankruptcy stay has been lifted, or  
10 a request for a lifting of the stay has not yet been ruled upon by the bankruptcy court.  
11 This gives the parties the opportunity to decide if they want to litigate these claims here or  
12 in the bankruptcy court. If plaintiff decides it wants to litigate here, it should move as  
13 soon as possible to get the stays lifted. We will not allow this case to languish on the  
14 docket during bankruptcy proceedings.

15 DATED this 29<sup>th</sup> day of October, 2013.

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18 Frederick J. Martone  
19 Senior United States District Judge  
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